

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

GEOFFREY FOSTER,)	
)	
Petitioner,)	
)	
v.)	CASE NO. 2:19-CV-492-WKW
)	[WO]
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

ORDER DISMISSING ACTION
AND DENYING A CERTIFICATE OF APPEALABILITY

On August 29, 2019, the Magistrate Judge filed a Recommendation (Doc. # 6) to which Petitioner filed objections (Doc. # 7). Based upon a *de novo* review of those portions of the Recommendation to which objection is made, *see* 28 U.S.C. § 636, it is ORDERED as follows:

- (1) Petitioner's objections (Doc. # 7) are OVERRULED;
- (2) The Recommendation of the Magistrate Judge (Doc. # 6) is ADOPTED; and
- (3) This action, construed as a 28 U.S.C. § 2255 motion, is DISMISSED for lack of jurisdiction.

Final judgment will be entered separately.

A certificate of appealability will not be issued. For a petitioner to obtain a certificate of appealability, he must make "a substantial showing of the denial of a

constitutional right.” 28 U.S.C. § 2253(c)(2). This showing requires that “reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (citation and internal quotation marks omitted). And, where a petition is denied on procedural grounds, he “must show not only that one or more of the claims he has raised presents a substantial constitutional issue, but also that there is a substantial issue about the correctness of the procedural ground on which the petition was denied.” *Gordon v. Sec’y, Dep’t of Corrs.*, 479 F.3d 1299, 1300 (11th Cir. 2007) (citations omitted). “A ‘substantial question’ about the procedural ruling means that the correctness of it under the law as it now stands is debatable among jurists of reason.” *Id.*

Because reasonable jurists would not find the denial of Petitioner’s § 2255 motion debatable, a certificate of appealability is DENIED.

DONE this 12th day of September, 2019.

/s/ W. Keith Watkins

UNITED STATES DISTRICT JUDGE